

In the United States District Court
Western District of Texas
Austin Division

Michael A. Smith	§	
	§	
vs	§	Cause No. A09CA505SS
	§	
Mann Bracken LLC et al	§	

Original Answer of Mann Bracken LLC

TO THE HONORABLE JUDGE OF THIS COURT:

The Defendant, Mann Bracken LLC (referred to hereafter as “Defendant” or “Mann Bracken”), files this Original Answer and in support thereof would show:

1. The Defendant does not contest jurisdiction at this time. However, the Defendant denies that seeking declaratory relief provides a basis for jurisdiction.
2. The Defendant does not contest venue.
3. The Defendant admits the allegations in Paragraph 3.
4. The Defendant admits the allegations in Paragraph 4.
5. The allegations in Paragraph 5 do not relate to this Defendant. Therefore no response is required.
6. The allegations in Paragraph 6 do not relate to this Defendant. Therefore no response is required.
7. The allegations in Paragraph 7 do not relate to this Defendant. Therefore

no response is required.

8. The allegations in Paragraph 8 do not relate to this Defendant. Therefore no response is required.

9. The Defendant admits that the Defendant, Travelers Casualty and Surety Company of American, is their bonding company. The allegations in Paragraph 9 relating to the Defendant, RLI Insurance Company, do not relate to this Defendant and therefore no response is required. The balance of Paragraph 9 is denied.

10. In response to Paragraph 10 of the Original Complaint, the Defendant admits jurisdiction. Otherwise, the allegations of Paragraph 10 are denied.

11. The allegations in Paragraph 11 of the Original Complaint are denied.

12. The Defendant admits that they represented Midland. Otherwise, the allegations in Paragraph 12 are denied.

13. The allegations in Paragraph 13 do not relate to this Defendant. Therefore, no response is required.

14. The allegations in Paragraph 14 of the Original Complaint are admitted.

15. The allegations in Paragraph 15 of the Original Complaint are denied.

16. The allegations in Paragraph 16 of the Original Complaint are denied.

17. The allegations in Paragraph 17 of the Original Complaint are denied.

18. The allegations in Paragraph 18 of the Original Complaint are denied.

19. The allegations in Paragraph 19 of the Original Complaint are denied.

20. The allegations in Paragraph 20 of the Original Complaint are denied.

21. In response to Paragraph 21, the Defendant incorporates their response to the referenced paragraphs the same as if fully copied and set forth at length.

22. The allegations in Paragraph 22 of the Original Complaint are denied.

23. The Defendant can neither admit or deny the allegations in Paragraph 23 of the Original Complaint.

24. The Defendant can neither admit or deny the allegations in Paragraph 24 of the Original Complaint.

25. The Defendant can neither admit or deny the allegations in Paragraph 25 of the Complaint.

26. The allegations in Paragraph 26 of the Original Complaint are denied.

27. The Defendant can neither admit or deny the allegations in Paragraph 27 of the Complaint.

28. The Defendant can neither admit or deny the allegations in Paragraph 28 of the Complaint.

29. The allegations in Paragraph 29 of the Original Complaint are denied.

30. In response to Paragraph 30, the Defendant incorporates their response to the referenced paragraphs the same as if fully copied and set forth at length.

31. The Defendant can neither admit or deny the allegations in Paragraph 31 of the Complaint.

32. The Defendant can neither admit or deny the allegations in Paragraph 32 of the Complaint.

33. The Defendant can neither admit or deny the allegations in Paragraph

33 of the Complaint.

34. The allegations in Paragraph 34 of the Original Complaint are denied.

35. The allegations in Paragraph 35 of the Original Complaint are denied.

36. In response to Paragraph 36, the Defendant incorporates their response to the referenced paragraphs the same as if fully copied and set forth at length.

37. The allegations in Paragraph 37 of the Original Complaint are denied.

38. Paragraph 38 of the Original Complaint consists only of legal conclusion to which no response is required.

39. In response to Paragraph 39, the Defendant incorporates their response to the referenced paragraphs the same as if fully copied and set forth at length.

40. The allegations in Paragraph 40 do not relate to this Defendant.

Therefore, no response is required.

41. In response to Paragraph 41, the Defendant incorporates their response to the referenced paragraphs the same as if fully copied and set forth at length.

42. The allegations in Paragraph 42 do not relate to this Defendant.

Therefore, no response is required.

43. The allegations in Paragraph 43 do not relate to this Defendant.

Therefore, no response is required.

44. The allegations in Paragraph 44 do not relate to this Defendant.

Therefore, no response is required.

45. The allegations in Paragraph 45 do not relate to this Defendant.

Therefore, no response is required.

46. The allegations in Paragraph 46 do not relate to this Defendant.

Therefore, no response is required.

47. The allegations in Paragraph 47 do not relate to this Defendant.

Therefore, no response is required.

48. The allegations in Paragraph 48 do not relate to this Defendant.

Therefore, no response is required.

49. The allegations in Paragraph 49 do not relate to this Defendant.

Therefore, no response is required.

50. The allegations in Paragraph 50 do not relate to this Defendant.

Therefore, no response is required.

51. The allegations in Paragraph 51 of the Original Complaint are denied.

52. The allegations in Paragraph 52 of the Original Complaint are denied.

53. The allegations in Paragraph 53 do not relate to this Defendant.

Therefore, no response is required.

54. The allegations in Paragraph 54 of the Original Complaint are denied.

55. The allegations in Paragraph 55 do not relate to this Defendant.

Therefore, no response is required.

56. The allegations in Paragraph 56 do not relate to this Defendant.

Therefore, no response is required.

57. The allegations in Paragraph 57 do not relate to this Defendant.

Therefore, no response is required.

58. In response to Paragraph 58 of the Original Complaint, the Defendant denies that the Plaintiff is entitled to recover any form of relief.

59. In response to Paragraph 59, the Defendant acknowledges that the Plaintiff has requested a jury trial.

60. In response to Paragraph 60, the Defendant denies that the Plaintiff is entitled to any form of relief.

WHEREFORE, the Defendant respectfully requests that the Plaintiff take nothing by this suit and for such other and further relief, both at law and in equity, to which the Defendant may be justly and legally entitled.

Respectfully Submitted,

Barron, Newburger & Sinsley PLLC
101 Metro Dr., Suite A
Terrell, Texas 75160
(972) 499-4833
(972) 563-1598 (facsimile)

/s/Ed Walton

Ed Walton

SBN: 20828550

Certificate of Service

I, the undersigned attorney, hereby certify that a true and correct copy of this instrument has this day been served through the Courts ECF system on the person(s) identified below:

Ahmad Keshavarz
16th Court St., 26th Floor
Brooklyn, New York 11241
(877) 496-7809

Signed on September 4, 2009.

/s/Ed Walton

Ed Walton